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No. OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM 2005

BRONCO WINE COMPANY and BARREL TEN QUARTER
CIRCLE, INC.,
Petitioners,

v.

JERRY R. JOLLY, Director of the California Department of
Alcoholic Beverage Control; CALIFORNIA DEPARTMENT OF
ALCOHOLIC BEVERAGE CONTROL; and the NAPA VALLEY
VINTNERS ASSOCIATION,
Respondents.

*On Petition For A Writ Of
Certiorari To The Supreme Court Of California*

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In 1986, the federal government, which regulates the labeling of alcoholic beverages to "prohibit deception of the consumer," 27 U.S.C. §205(e)(1), issued a rule generally prohibiting wineries from adopting new brand names containing geographic terms, unless the wine originates in the place referenced in the brand. The rule, however, expressly authorized the continued use of already-existing geographic brands for wines originating elsewhere, provided the label features an "appellation of origin" or some other statement "sufficient to dispel" any misimpression about the wine's origin. 27 C.F.R. §4.39(i)(2). Petitioners are authorized by this rule, and by a series of specific federal label permits, to use the pre-1986 brand names "Napa Ridge," "Napa Creek Winery," and "Rutherford Vintners" on wines from a variety of California regions. In 2000, however, the California Legislature, dissatisfied with the federal policy, enacted a law forbidding petitioners from using these brands except on Napa County wines. The questions presented are:

1. Whether the Supremacy Clause preempts a state law that prohibits conduct expressly authorized by federal rule and federal permits.

2. Whether a state law that conflicts with federal law nonetheless is entitled to a "strong presumption against preemption" because it addresses a subject historically regulated by the states and because federal regulation of the field was not "manifest since the beginning of our Republic."

3. Whether wine labels that federal regulators have specifically approved as not misleading may be deemed "inherently misleading" and without First Amendment protection because a state legislature, disagreeing with federal regulators, considers them deceptive.

**LIST OF PARTIES TO THE PROCEEDING IN THE
CALIFORNIA SUPREME COURT**

Petitioners:

Bronco Wine Company
Barrel Ten Quarter Circle, Inc.

Respondents:

Jerry R. Jolly, Director of the California
Department of Alcoholic Beverage Control
The California Department of Alcoholic
Beverage Control

Intervenor:

Napa Valley Vintners Association

CORPORATE DISCLOSURE STATEMENT

No parent or publicly held company owns more than
10% of the stock of either of petitioners Bronco Wine
Company or Barrel Ten Quarter Circle, Inc.

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